

BEFORE THE
POSTAL REGULATORY COMMISSION
WASHINGTON, D.C. 20268-0001

PERIODIC REPORTING
(PROPOSAL THIRTEEN)

Docket No. RM2015-7

**RESPONSE OF THE UNITED STATES POSTAL SERVICE TO
UPS MOTION FOR EXTENSION OF TIME TO FILE COMMENTS
AND OTHER RELIEF**
(July 2, 2015)

On June 30, 2015, UPS moved to extend by one week the deadline for reply comments on its Supplemental Report from the date of July 15, as set by Order No. 2445 (April 23, 2015), to July 22. UPS also moved for two other types of procedural relief. The Postal Service hereby files its response to that motion.

First, the Postal Service does not oppose the request to extend access to previously submitted nonpublic materials to additional UPS consultants. Nor does the Postal Service oppose the request to allow individuals who have already submitted certifications and been granted access to previously submitted nonpublic materials immediate access to any further nonpublic materials (when, as here, the nonpublic elements of the new materials are identical to the elements which caused the original request for nonpublic treatment of the previous materials). Indeed, the Postal Service encourages the Commission to consider amending the provisions of its rules governing access to nonpublic materials to address this situation generally. A series of filings, all predicated on analysis of the same set of nonpublic materials, is a scenario that is not unlikely to occur again in the future. Moreover, the potential complications from such a scenario are also not unlikely to arise in situations when having to seek relief from the

Commission (even granting that the Commission is invariably quite prompt in responding to these types of requests) may cause detrimental delay. Although, as UPS is currently proving, such delay can in some situations perhaps be avoided by anticipatory requests for relief, a more general solution in the form of a rulemaking may be warranted.¹ Certainly if the Commission is contemplating other changes in this portion of its procedural rules, this topic would then be very worthy of consideration.

The Postal Service, however, does oppose the UPS request for a one week extension of time in which to prepare and file reply comments. It is true that the Postal Service has informed UPS that it will be providing quantitative analysis on econometric issues. But the Postal Service has also informed UPS that such materials will not include any new models, but will merely consist of diagnostic analysis of the models already submitted by Dr. Neels. One could argue that these are diagnostics that could have been and should have been submitted by Dr. Neels himself. The Postal Service does not agree with the UPS anticipatory assessment that these materials will be extensive and complex, but it seems rather strange to be arguing about the scope and complexity of materials that have yet to be submitted. To the extent that these are the grounds upon which the request is explicitly premised, the UPS motion at the very least seems premature.

In essence, the UPS motion seems to be arguing that the Commission's Order setting a one-week reply period simply failed to allow an appropriate amount of time for

¹ The Postal Service, precisely to avoid any such delay, is structuring the materials it is filing on July 8th to avoid any explicit incorporation of elements that would need to be shielded. In this instance, this involves providing programs which those who already have access to the nonpublic data sets can run, but refraining from re-providing, as it were, those nonpublic data sets. Filing the material as public should allow all parties immediate access via posting on the Commission website. Obviously, however, it is not always possible to circumvent the problem in this fashion.

that purpose. The Postal Service disagrees. The Commission has been generous to allow UPS to inject its supplemental analysis into this proceeding on a later timeline than provided for in the original procedural schedule. Surely all involved would know that such a report, and any comments filed in response, would involve technical issues. Those technical issues will all relate to the models which UPS itself has submitted, however, so its experts should be well up to speed on the intricacies of those models. The Commission presumably took all of that into account when allowing one week for UPS to respond to the comments of other parties. UPS has provided no valid reason to believe that assessment was incorrect. Allowing more time is unnecessary, and would be prejudicial to the interests of the Postal Service and possibly other parties as well.

The motion also mentions, however, a personal scheduling conflict. Motion at 2, footnote 3. The Postal Service is sympathetic to the reality that reasonable accommodations should be made when feasible. If the root of the problem is that the one-week period following July 8th is a particularly bad one, a potential solution might simply be to extend the due date for initial comments until Tuesday July, 14, and the due date for reply comment until one week later, Tuesday July 21. While that might superficially seem to provide an unfair windfall to parties filing initial comments (in the form of four additional business days to prepare their filings), as a practical matter it is unlikely to confer any tangible advantage. Since parties are already deep into their preparation on the existing schedule, by the time the Commission could act on this alternative proposal, the practical effect would basically be that comments already prepared would sit on the shelf between July 8th and July 14th. At that time, the UPS team should be up to full complement, and would have the full week contemplated by

Order No. 2455 for the task at hand. Such an alternative would therefore preserve the implicit procedural balance established in Order No. 2455, without impinging on previously scheduled commitments.

Respectfully submitted,

UNITED STATES POSTAL SERVICE

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